

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

)

)

MUR 5176

)

George K. Miller

)

**CONCILIATION AGREEMENT**

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that George K. Miller ("Respondent"), violated 2 U.S.C. § 441a(a)(1)(A).

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Respondent, George K. Miller, is an individual contributor. Dave Wu for Congress (the "Committee") is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Pursuant to 2 U.S.C. § 441a(a)(1)(A), no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office

22-04-40-4326

which, in the aggregate, exceed \$1,000. Commission regulations require that for a contribution to be designated in writing for a particular election, a contribution check itself or an accompanying writing signed by the contributor must clearly indicate the particular election with respect to which the contributions is made. 11 C.F.R. § 110.1(b)(4). Commission regulations also require that any contribution made by more than one person shall include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing. 11 C.F.R. § 110.1(k)(1).

3. Respondent and his wife, Andrea K. Miller, relied on the Committee's representations regarding compliance with the individual contribution limitations in making a joint contribution to both the Committee's 1998 primary and general election campaigns.

4. Respondent sent a check dated February 23, 1998 for \$4,000 payable to the Committee. Respondent's check was drawn from the joint checking account shared by him and his wife, but was signed only by Respondent. An accompanying pre-printed contributor card was completed to list both the Respondent and his wife as the contributors. Only the Respondent's occupation and name of employer was listed on this card. The card did not reference any designation toward the primary or general elections. Because no writing was signed by the Respondent's wife and because there was no written designation, the contribution was on its face an excessive contribution to the Committee.

5. Respondent contends that he and his wife intended to comply with the \$1,000 contribution limit in 2 U.S.C. § 441a(a)(1)(A) by making four separate \$1,000 contributions: one from the Respondent and one from his wife for each of the primary and general election campaigns.

22-04-405-4327

6. The Committee failed to request that Respondent provide the treasurer with a signed written redesignation of the contribution within 60 days of the treasurer's receipt of the contribution, 11 C.F.R. § 110.1(b)(5)(ii)(B), or request that Respondent provide the Committee with a signed written reattribution of the contribution within 60 days, 11 C.F.R. § 110.1(k)(3). Committees are required to refund within 60 days, or secure redesignations/reattributions within 60 days, of a contribution which on its face exceeds the Act's contribution limitations. 11 C.F.R. §§ 103.3(b)(3); 110.1(b)(2); 110.1(k)(3).

7. A letter from the Committee dated September 14, 1999, countersigned by the Respondent, and a letter from the Committee dated November 1, 1999, countersigned by Mrs. Miller, indicate the Respondent and his wife's intention to comply with 2 U.S.C. § 441a(a)(1)(A) by making four separate \$1,000 contributions to the Committee. If a writing to this effect signed by both the Respondent and his wife had accompanied the contribution, the contributions would have been within the limit stated in 2 U.S.C. § 441a(a)(1)(A). If the Committee had sought and received a reattribution and redesignation that complied with the requirements of 11 C.F.R. § 110.1, the contributions would have been considered to be within the limit stated in 2 U.S.C. § 441a(a)(1)(A).

V. Respondent failed to properly attribute and designate the contributions that were included in the single \$4,000 check in accordance with 11 C.F.R. §§ 110.1(b) and 110.1(k)(1), which resulted in a \$3,000 excessive contribution on its face to Dave Wu for Congress. Respondent contends that he inadvertently failed to properly attribute and designate the contributions, but that he did not intend to violate 2 U.S.C. § 441a(a)(1)(A).

22-04-405-4328

VI. In an effort to expeditiously resolve this matter, Respondent will pay a civil penalty to the Federal Election Commission in the amount of one thousand, one hundred and twenty-five dollars (\$1,125), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

6224.504.405.4329

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lois G. Lerner  
Acting General Counsel

BY: 

Gregory R. Baker  
Acting Associate General Counsel

6/26/01  
Date

FOR THE RESPONDENT:

  
George K. Miller

6/1/01  
Date

22-04-405-4330